

REMARKS

I. New Claims and Claim Amendments

New Claim 110 (dependent from Claim 2) and Claim 111 (dependent from Claim 12) have been added to cover particularly preferred embodiments of the present invention. Specifically, Claim 110 is directed to an embodiment of Claim 2 where X^2 is N, and Claim 111 is directed to a particular embodiment of Claim 12 where the peptide is APSNSTA [SEQ.ID.NO.:15]. No new matter is added by new Claims 110 and 111. Support for new Claims 110 and 111 may be found in original claims 2 and 12, respectively. Entry of new Claims 110 and 111 is respectfully requested.

Claim 12 has been amended as a formal matter to remove the recitation "the amino acid sequence". No new matter is added by the amendment to Claim 12. Entry of the amendment is respectfully requested.

II. Restriction Requirement

In the Office Action mailed July 21, 2009, the Examiner alleges that the application contains claims directed to more than one species of the generic invention and that these species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. According to the Examiner,

"[T]he species lack the same or corresponding special technical features for the following reasons: no common structure is present (i.e. there is not a significant structural element shared by all of the alternatives). Therefore, unity of invention is lacking *a priori*". (See, Office Action, page 3.)

As such, the Examiner is requiring Applicants to elect one of the following peptide species: PALKT [SEQ.ID.NO.:6], PSNST [SEQ.ID.NO.:8], PPNTT [SEQ.ID.NO.:9], STPPNTT [SEQ.ID.NO.:17], APSNSTA [SEQ.ID.NO.:15], and SPALKTV [SEQ.ID.NO.:16].

Applicants traverse the rejection and request reconsideration and removal of the restriction requirement for the reasons set forth below.

This application is a United States national stage filing under 35 U.S.C. §371; accordingly, this application is subject to the "unity of invention" standard as set forth in 37 C.F.R. §1.475. With regard to unity of invention, MPEP §1850 states:

"Unity of invention exists only when there is a technical relationship among the claimed invention involving one or more special technical features. The term 'special technical features' is defined as meaning those technical features that define a contribution which each of the inventions considered as a whole, makes over the prior art."

* * *

"When the Markush groupings is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:

- (A) All alternatives have a common property or activity; and
- (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives . ."

The present invention is related to the discovery that peptides comprising the structural motif, PX¹X²X³T, bind specifically and with high affinity to receptors on the surface of dendritic cells. As such, the peptides disclosed in Claims 2 and 12 share the common property of binding to receptors on the surface of dendritic cells and all said peptides share the common structural motif of the peptide recited in Claim 1 and therefore all the peptides recited in Claims 2 and 12 fall within this common structural motif and should be examined together.

Conclusion and Election of Species

Applicants submit that in view of the foregoing remarks all the pending claims are seen to relate to a single inventive concept and all share a common structural feature, and, as such, the claims are properly viewed as relating to a single invention that should not be restricted. Applicants request that the election requirement of the Office Action of July 21, 2009 be reconsidered and withdrawn.

Although, for reasons set forth above, Applicants believe that the species election is uncalled for, and without in any way acquiescing in the reasons for the requirements set forth in the Office Action, but in order to be fully responsive to the Office Action, Applicants elect PSNST [SEQ.ID.NO.:8]. The claims reading on the elected species are: Claims 1, 2, 12, 13, 32, 35, 42, 51, 54, 65, 76, 80, 84, 97, 98, 99, 100, 101, 105, 106, 107, 110, and 111.

Reconsideration and removal of the restriction are requested.

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U.S. Appln. No. 10/559,758
Atty. Docket: ABL-012.1P US

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September 21, 2009

date

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